IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL (L) NO.851 OF 2002

The Commissioner of Income-tax
City XXVI, Mumbai .. Appellant.

V/s.

Shri Zoeb Y. Topiwala .. Respondent.

Dr.P. Daniel with Mr.Pankaj Kapoor for the appellant.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 22ND AUGUST, 2005.

P.C. :

By this appeal filed under Section 260A of the Income Tax Act, 1961, the Revenue has challenged the order dated __ July, 2001 passed by the Income Tax Appellate Tribunal, Mumbai and raised the following substantial question of law :

> Whether on the facts and in the circumstances of the case and in the law the Tribunal is correct in dismissing the appeal of the Revenue and confirming the order of the CIT(A) as regards the expenses claimed by the assessee for earning the incentive bonus; other than the standard deduction ?

2. Heard the learned counsel for the appellant.

3. Learned counsel for the appellant-revenue invited our attention to the instructions issued by the Central Board of Direct Taxes, New Delhi dated

27th March, 2000; wherein monetory limit for the department for filing reference/appeal to the High Court earlier fixed for Rs.50,000/- came to be revised and fresh instructions are issued by the Board to file reference only in cases where tax effect exceeds Rs.2,00,000/-. Learned counsel for the appellant-revenue fairly admits that the stake of revenue in this case is Rs.6,000/- to Rs.7,000/-.

4. This Court in the case of C.I.T. V. Camco Colour Co., (2002) 254 ITR 565 ruled that the above instructions are binding on the department. This judgment is followed by this Court in C.I.T. v. Pithwa Engg. Works, (2005) 276 ITR 519 and held that it is not open for the Department to contend that this circular is binding only with respect to the new cases and not with respect to the old cases even if the tax is less than Rs.2 lakh. The same policy for old matters needs to be adopted by the Department.

5. The above instructions dated 27th March, 2000 reflects the policy decision taken by the Board not to raise questions of law where the tax effect is less than the amount prescribed in the instructions with a view to reduce litigations before High Courts and Supreme court. The circular is binding on the Revenue. There is no justification to proceed with

the appeal having tax effect less than Rs.7,000/-.

6. We, thus, do not think it necessary to entertain this appeal and answer the question raised by the appellant-revenue. Accordingly, appeal stands dismissed with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)